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In re Application of :
MILLER : DECISION
Application No.: 09/242,072 :
PCT No.: PCT/AU96/00442 :
Int. Filing Date: 05 August 1996 :
Priority Date: None :
Atty Docket No: None :
For: APPARATUS FOR LIQUID PURIFICATION :

This decision is in response to applicant's petitions filed 01 March 2000 (dated 25 February 2000) and 05 September 2000.

BACKGROUND

The procedural background is set forth in the decision mailed 08 February 2000 and hereby incorporated by reference.

Applicant's petitions request that: 1) the period for reply set in "Notification of Defective Response" (Form PCT/DO/EO/916) and "Notification of Defective Oath or Declaration" (Form PCT/DO/EO/917) mailed 03 November 1999 be restarted based on Office delay in mailing the communication, 2) the three previously filed "declarations" filed 01 February 1999, 06 July 1999, and 15 September 1999, satisfy the requirements for such declarations under U.S. law, and 3) clarification regarding the fee deficiency noted in the decision mailed 08 February 2000.

DISCUSSION

I. Fees

The petition filed 05 September 2000 provides authorization to charge deposit account no. 50-1200 the multiple claim fee surcharge deficiency. Accordingly, all required fees have been paid. For applicant's future reference, the mere fact that a deposit account has been established with the USPTO does not constitute authorization to charge any required fees to that account.

II. The three previously filed "declarations" failed to comply with 37 CFR 1.497(a)-(b)

The three "declarations" filed 01 February 1999, 06 July 1999, and 15 September 1999, respectively all fail to comply with 37 CFR 1.66 or 1.68, and thus fail to comply with 37 CFR 1.497(a), as they neither include the "warning" clause required under 35 U.S.C. 25 for acceptance of "declarations," nor do they satisfy the requirements for a foreign executed "oath" (e.g., proper certification of the notary, including the use of an apostille- See MPEP 602.04).

III. *Petition to reset the time period for reply to Forms PCT/DO/EO/916 and 917*

The "Notification of Missing Requirements" mailed 17 June 1999 indicated that the declaration filed 01 February 1999 was defective because it did not include the citizenship of the inventor. This is correct. However, the Notification should also have indicated that the declaration was not executed in accordance with 37 CFR 1.66 or 1.68 and did not properly identify the specification to which it is directed. Accordingly, that Notice, along with the subsequently issued "Notification of Defective Response" mailed 30 August 1999 and 03 November 1999, and the holding of abandonment in the 08 February 2000 decision, are hereby vacated.

In light of the above, the petition to restart the period for reply to the "Notification of Defective Response" mailed 03 November 1999 is dismissed as moot.

It is noted that applicant has filed an executed declaration on 14 January 2000.¹ This declaration satisfies the requirements under 37 CFR 1.497(a)-(b). Accordingly, all requirements under 35 U.S.C. 371(c) have now been satisfied.

CONCLUSION

For the above reasons, the petition to restart the period for reply to the "Notification of A Defective Response" (Form PCT/DO/EO/916) mailed 03 November 1999 is **DISMISSED as moot**.

The "Notification of Missing Requirements" mailed 17 June 1999, the "Notification of Defective Response" mailed 30 August 1999 and 03 November 1999, and the holding of

¹ Applicant's 14 January 2000 letter was not matched with the present application file until after mailing of the 08 February 2000 decision, probably because the cover letter referenced only the international application number, and not the U.S. application number. Annex 7 of the 05 September 2000 petition shows the declaration as deposited with the German postal authorities on 24 December 1999. However, the USPTO did not receive this communication until 14 January 2000.

abandonment in the 08 February 2000 decision, are hereby VACATED.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including according the application 35 U.S.C. 371(c) and 102(e) dates of 14 January 2000.



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